

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :  
v. : **Criminal No.: 95CR1545**  
ELKEM METALS COMPANY, : **15 U.S.C. §1**  
Defendant : **Filed: [9/22/95]**

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INFORMATION

The United States of America, acting through its attorneys,  
charges:

1. Elkem Metals Company (Elkem) is made a defendant herein.

I

DESCRIPTION OF THE OFFENSE

2. Beginning at least as early as late 1989 and continuing at least until mid 1991, the exact dates being unknown to the United States, the defendant and others engaged in a combination and conspiracy to fix prices of commodity ferrosilicon products sold in the United States. The combination and conspiracy engaged in by the defendant and co-conspirators in unreasonable restraint of interstate trade and commerce violated Section 1 of the Sherman Act (15 U.S.C. §1).

3. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among

the defendant and co-conspirators, the substantial term of which was to agree to fix prices of commodity ferrosilicon products sold in the United States.

4. For the purpose of forming and effectuating the charged conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do.

## II

### DEFENDANT AND CO-CONSPIRATORS

5. Elkem is a partnership formed under the laws of the State of New York and has its principal place of business in Pittsburgh, Pennsylvania. During the period covered by this information, Elkem was engaged in the sale of commodity ferrosilicon products throughout the United States.

6. Various persons and firms, not made defendants in this information, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

7. Whenever in this information reference is made to any act, deed, or transaction of any corporation, the allegation means that the corporation engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of its business or affairs.

### III

#### INTERSTATE TRADE AND COMMERCE

8. Commodity ferrosilicon products are alloys of iron and silicon. The most common products have silicon content of approximately 50% or 75% and are produced by most ferrosilicon producers who sell large quantities of these products. Commodity ferrosilicon products also contain close to the maximum allowable amount of elements which are considered impurities, for example, phosphorus, sulphur, and aluminum. Commodity ferrosilicon products are sold by defendant Elkem as its "regular grade." The principal use of commodity ferrosilicon products is as an alloying agent in the production of steel and cast iron to improve the finished product's properties, for example, its strength and corrosion resistance.

9. During the period covered by this information, defendant Elkem and co-conspirators sold and shipped substantial quantities of commodity ferrosilicon products in a continuous and uninterrupted flow of interstate commerce to customers located in states other than states in which the defendant and co-conspirators manufactured commodity ferrosilicon products.

10. The business activities of defendant Elkem and co-conspirators that are the subject of this information were within the flow of, and substantially affected, interstate trade and commerce.

IV

JURISDICTION AND VENUE

11. The combination and conspiracy charged in this information was carried out, in part, within the Western District of New York within the five years preceding the filing of this information.

ALL IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

Dated:

\_\_\_\_\_/s/\_\_\_\_\_  
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Acting Assistant Attorney General

\_\_\_\_\_/s/\_\_\_\_\_  
MELVIN LUBLINSKI

\_\_\_\_\_/s/\_\_\_\_\_  
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\_\_\_\_\_/s/\_\_\_\_\_  
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